

Remarks

Applicants first acknowledge with thanks that the Examiner has found the subject matter of pending Claims 9-12 allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claim 1 has thus been amended to incorporate the limitation of Claim 9 and the dependencies of Claims 10-12 have been adjusted accordingly. (Claim 9 has therefore been cancelled as providing no further limitation to Claim 1 as amended).

Claim 1 has been further limited to restrict R⁷ to halo, -CN, or -CF₃, (the limitation of prior Claim 2) and to restrict R^{1-5&8} to hydrogen (the limitation of prior Claim 15). Support for all of these amendments is found in the claims as originally filed in the PCT application, specifically in Claim 15 as dependent from Claim 9 (or from any one of Claims 10-12 as dependent from Claim 9), as dependent from Claim 2, as dependent from Claim 1. (As such, Claims 2 and 15 have been cancelled as not further limiting Claim 1 as amended.)

It is noted that with the amendments, the conditions of the provisos can no longer be met, thus rendering the provisos moot. They have thus been deleted from Claim 1.

New Claims 38-47 have been added to claim particular embodiments within the scope of amended Claims 1, 16, and 18-25. Support for these claims can be found throughout the Specification and particularly in Example 668 in conjunction with page 36, lines 22-24.

Claims 4-8 have also been cancelled without prejudice and with reservation of the right to file divisional applications claiming such subject matter.

No new matter is added by any of these amendments.

Claims 1, 6-8 and 16 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Bondinell et al., EP 0 285 287. Claims 1-3, 5-8, 15, 16, 18 and 19 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Demarinis et al., WO 93/03015. Claims 1-4, 15, 16, 18-21, 24 and 25 stand provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 2, 6, 8-11, 14 and 15 of copending Application No. 11/995,344. Applicants disagree with these characterizations and believe that prima facie

cases for obviousness have not in fact been established, such that the rejections are improper. However, in an effort to expedite the allowance of the claims to certain embodiments of the invention agreed to be allowable, Applicants have limited the claims to subject matter within the scope of prior Claims 9-12 and to subject matter of prior Claims 16 & 18-25 as limited by amended Claim 1. Applicants believe all issues have been addressed, that all rejections and objections have been obviated, and that the claims are now in condition for allowance. Withdrawal of the rejections and objections and passage of the application to allowance is thus respectfully requested.

Respectfully submitted,

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